

## **REMARKS**

### **REVIEW**

The current application sets forth claims 1 through 24, of which claims 1, 8, 16, and 22 are independent claims. Claims 9 and 17-21 have been cancelled by amendment. Applicant gratefully acknowledges that claims 1-7 and 16 have been indicated as allowed. Further, claims 15, 23, and 24 stand objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

Claim 22 also stands rejected under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter Applicant's regard as their invention. Claims 8, 10-14, and 22 stand collectively rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Patent No. D450,620 to *Simpson*.

### **TELEPHONE INTERVIEW**

Applicant gratefully acknowledges the telephone interview granted by the Examiner. The rejection under 35 U.S.C. § 102 was discussed. In summary, Applicant asserted that *Simpson*, being a design patent, does not expressly or inherently disclose a two-member combination of a platform and base element, where the base is adapted as set forth in the claims to support the platform. Accordingly, Applicant maintained, since this is missing from *Simpson*, *Simpson* is ineligible to serve as an anticipating reference under § 102.

The Examiner understood that the figures of *Simpson* appeared to indicate a two-component, but acknowledged that a design patent may not disclose more than what the figures illustrate.

The Examiner suggested that Applicant file a request for reconsideration of the final rejection.

## **ALLOWED CLAIMS**

Applicant gratefully acknowledges allowance of Claims 1-7 and 16.

## **OBJECTED CLAIMS**

The Examiner has indicated that Claims 15, 23, and 24 are objected to as depending from rejected base claims, but would be allowed if rewritten in independent form, including the limitations of the rejected base claims. Claims 15, 23, and 24 have been amended accordingly and are believed now to be in condition for allowance.

## **35 U.S.C. § 112, SECOND PARAGRAPH REJECTION**

Claim 22 has been rejected under 35 U.S.C. § 112, second paragraph, as allegedly failing to distinctly point out the claimed invention. The above amendments render this rejection moot.

## **35 U.S.C. § 102(b) REJECTION**

35 U.S.C. § 102 provides that applicant is entitled to a patent for his invention unless it is proved to be anticipated by a piece of prior art. *See* 35 U.S.C. § 102. The burden is, therefore, upon the Examiner to show that "**every element** of the claimed invention **must** be **identically** shown in a single reference." *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 675, 677, 7 U.S.P.Q.2d 1315, 1317 (Fed. Cir. 1988; emphasis added). *The disclosed elements must be arranged as in the claim under review.* *See Lindemann Machinefabrik v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984) (*emphasis supplied*); MPEP § 131 ("The elements must be arranged as required by the claim . . ."). If any claim, element, or step is absent from the reference that is being relied upon, there is **no** anticipation. *Kloster Speedsteel AB v.*

Crucible, Inc., 793 F.2d 1565, 230 U.S.P.Q. 81 (Fed. Cir. 1986; emphasis added). Anticipation under 35 U.S.C. Section 102 requires that there be an **identity of invention**. See Shatterproof Glass Corp. v. Libbey-Owens Ford Co., 758 F.2d 613, 619, 225 U.S.P.Q. 635, 637 (Fed. Cir. 1985; emphasis added). In PTO proceedings, claim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art. In re Sneed, 710 F.2d 1544, 1548, 218 U.S.P.Q. 385, 388 (Fed. Cir. 1983). The following analysis of the present rejections is respectfully offered with guidance from the foregoing controlling case law decisions.

**Claims 8, 10-14, and 22.** Claims 8, 10-14, and 22 have been cancelled, rendering this ground of rejection moot.

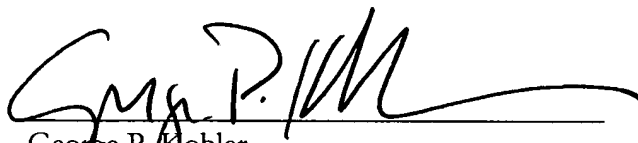
#### **CITED RELEVANT PRIOR ART**

It is not believed that any of the prior art cited but not relied upon, alone or in combination either with each other or other cited prior art, teaches, discloses, suggests, or makes obvious the claimed features of the present invention.

**CONCLUSION**

In view of the foregoing amendments and comments, Applicant respectfully requests withdrawal of the current grounds of rejection and the issuance of a formal Notice of Allowance. The Examiner is invited to telephone the undersigned at her convenience should only minor issues remain after consideration of this amendment in order to permit early resolution of the same.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "George P. Kobler", written over a horizontal line.

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